

GLOUCESTER COUNTY AGRICULTURE DEVELOPMENT BOARD

RIGHT TO FARM RESOLUTION

**CERTIFYING COMMERCIAL FARM OPERATION AND RECOMMENCING SITE
SPECIFIC AGRICULTURE MANAGEMENT PRACTICES FOR TIMOTHY AND
MICHELLE DOYLE/FOUR SEASONS NURSERY, LLC, BOROUGH OF CLAYTON**

DATED: SEPTEMBER 8, 2011

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1, et. seq. and the State Agriculture Development Committee regulations, N.J.A.C. 2:76-2.3, a commercial farm owner or operator may make a request to the County Agriculture Development Board (hereinafter “CADB” or “Board”) to determine if his or her operation constitutes a generally accepted management practice; and

WHEREAS, Timothy and Michelle Doyle (hereinafter collectively “Doyle”) are the owners of the Four Seasons Nursery, LLC, (hereinafter “Four Seasons”) 1114 North Delsea Drive (State Highway Route 47), located on Block 19.02, Lots 8, 9 and 10, Borough of Clayton, New Jersey (hereinafter the Property); and

WHEREAS, on March 18, 2011, the Doyle’s, as owners and operators of Four Seasons, made a request in writing to the Board that the operations of Four Seasons at the Property be designated as a commercial farm under the Right to Farm definition; and

WHEREAS, the Doyle’s on March 18, 2011 also requested in writing to the Board for the development of site-specific Agriculture Management Practices (hereinafter “AMP”) for a number of activities concerning certain agricultural operations on the Property, as follows: (i) to continue to farm, till, plant, and harvest crops; (ii) to construct, maintain, cover and uncover greenhouses; (iii) to construct an eight (8) foot deer fence to halt deer damage to crops; (iv) to demolish three (3) old farm buildings, and replace them with two (2) new farm buildings (pole barns) primarily for agricultural storage; and, (v) to erect and maintain farm signs in and along Delsea Drive (State Highway Route 47); and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3 (c), the Board advised in writing the State Agriculture Development Committee and the municipality of Clayton of the Doyle’s request; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3 (b), the Board requested that the Doyle’s provide proof that their agricultural operation at the Property is a commercial farm as defined at N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.1; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3 (b), the Doyle’s provided their commercial farm certification, including supporting documentation that their agricultural operation is a commercial farm as defined at N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.1; and

WHEREAS, a public hearing was noticed to take place at the June 17, 2011 Board meeting; and

WHEREAS, notice of the public hearing was provided to all property owners within two hundred (200) feet as suggested by the Court in Curzi v. Raub, 415 N.J.Super.1 (N.J.Super. A.D. 2010); and

WHEREAS, in accordance with the procedure set forth in N.J.A.C. 2:76-2.10, a hearing was held on June 17, 2011, when the Doyle’s presented their case, and the Borough of Clayton appeared through its Planning Board Solicitor, Mr. John Alice, Esquire, to add input regarding the Doyle’s request for and on behalf of the said municipality; and

WHEREAS, the Board received into evidence the following Exhibits:

Exhibit D-1 - - Right to Farm Certification form including attachments supporting eligibility;

Exhibit D-2 - - Package of documents including the following: (i) letter from the Doyle's requesting recommendation of AMP (one page); (ii) photographs of property, including buildings and improvements thereon (nine pages); (iii) reduced survey of property, including locations of buildings on property and aerial photograph of property (two pages); (iv) letter dated June 22, 2010 from the Borough of Clayton Zoning Officer, Joe Kenney (one page); (v) various pages from the Clayton Borough Zoning Ordinance and Right to Farm Act (two pages); (vi) receipts from the Borough of Clayton regarding payment for zoning permit (one page); (vii) letter dated June 8, 2011 from the Clayton Borough Zoning Officer, Joseph Kenney (one page); (viii) various pages from the Clayton Zoning Ordinance (two pages); (ix) letter dated June 10, 2010 from the Gloucester County Office of Land Preservation to Tim Doyle with attachments (five pages); and

Exhibit D-3 - - Plan of Survey of Block 19.02, Lot 8, Borough of Clayton (1114 North Delsea Drive) dated October 19, 2006 showing existing buildings to be removed and proposed new buildings (pole barns); and

WHEREAS, the Board has considered the Doyle's request (application), the Doyle's certification, and the exhibits presented and testimony presented.

NOW, THEREFORE, BE IT RESOLVED, that the Board makes the following findings and conclusions:

The Board's consideration of the eligibility of the Doyle's application under the Right to Farm Act.

1. There are credible exhibits that establish that the commercial farm is no less than five (5) acres;
2. The commercial farm produces agricultural/horticultural products worth at least \$2,500 per year;
3. The list of such products is listed in the application;
4. The farm is eligible for differential property taxation pursuant to the Farmland Assessment Act of 1964;
5. A farm has been in operation on the Property as of July 2, 1998;
6. A complete written application for recommending AMP's was made to the Board; and
7. Where all of the criteria above having been satisfied, the Board finds and determines that the Doyle's meet the eligibility criteria of the Right to Farm Act.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Doyle's operate a commercial farm at the Property, and in accordance with the requirements of N.J.S.A. 4:1C-9; and are engaged in generally accepted agricultural operations or practices pursuant to N.J.A.C. 2:76-2B.2.

The Board's consideration of the AMP request regarding the right to construct, maintain, cover and uncover greenhouses.

1. Based upon the exhibits entered and testimony presented, the Board finds that it is a generally accepted agricultural management practice to construct, maintain, cover and uncover greenhouses as part of the nursery operation being undertaken at the Property by the Doyle's;
2. The Board finds that the Doyle's construction, maintenance, covering and uncovering of greenhouses at the Property will not implicate any health, safety or welfare issues, and the Doyle's have a legitimate farm based reason for such.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Doyle's may continue to construct, maintain, cover and uncover greenhouses at the property as part of their commercial farm operation at the Property, as the maintenance of such farm buildings is a generally accepted agricultural management practice.

The Board's consideration of the AMP request regarding the proposed construction and erection of a deer fence.

1. Based upon the exhibits entered and testimony presented, the Board finds that it is a generally accepted agricultural management practice to construct deer fences in order to stop deer damage to crops, and to minimize the impacts of deer to land in cultivation, as same conforms with an existing promulgated AMP, specifically N.J.A.C. 2:76-2A.9;
2. The Board finds that the Doyle's propose to construct a deer fence on the rear of the Property approximately one thousand (1,000) feet in length, which will be constructed of eight (8) foot wood poles with deer wire strung between same;
3. The Board finds that the Doyle's have a legitimate farm based reason for not complying with any Borough of Clayton ordinances that may require a variance to build the type of fence proposed by the Doyle's for the Property;
4. The Board finds that the proposed deer fence will not implicate any health, safety or welfare issues;
5. The Board finds that it has been established that the construction and erection of a deer fence as part of a commercial farm operation is an AMP, as set forth in N.J.A.C. 2:76-2A.9 entitled "Fencing Installation Agricultural Management Practice for Wildlife";
6. That the Board finds that the Doyle's are to the extent required granted a variance to construct the fence at the Property as has been proposed, and no site plan approval shall be required for same;
7. That the Board finds that the Borough of Clayton shall immediately issue all appropriate permits for the construction of the deer fence as presented in the application of the Doyle's submitted to the Board;

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board grants relief to the Doyle's from any zoning requirements of the Borough of Clayton regarding the construction of the proposed deer fence, so that the proposed deer fence may be constructed by the Doyle's at the Property immediately upon issuance of any permits for same by the Borough of Clayton.

The Board's consideration of the AMP request regarding the proposed demolition of three (3) old farm buildings, and the construction of two (2) new farm buildings (pole barns) for primarily agricultural use in their place.

1. Based upon the exhibits entered and testimony presented, the Board finds that the Doyle's have a legitimate farm based reason for demolishing three (3) old farm buildings located at the Property;
2. The Board finds that it is a generally accepted agricultural management practice to construct new buildings within the existing farm infrastructure, and as close to other buildings as is functionally possible, so as to minimize the impacts to land and cultivation;
3. The Board finds that the two (2) new pole barn buildings proposed to be constructed and erected at the Property by the Doyle's, one of approximately 1,800 square feet and 12 feet in height, and the other of 6,160 square feet and 16 feet in height, will not implicate any health, safety or welfare issues;
4. That the Board finds that the Doyle's have a legitimate farm based reason for not complying with the Borough of Clayton's ordinance requiring any variances and/or site plan approvals to construct and erect the two (2) pole barns for primarily agricultural use on the Property;

5. That the Board finds that the two (2) new pole barn buildings will be utilized by the Doyle's for the storage of tractors, peat moss, pots, farm implements and other such items for the existing farm operation at the Property;
6. That the Board finds that to the extent required, the Doyle's are granted a variance to construct and erect the two (2) proposed pole barn buildings at the Property, and no site plan approval of same shall be required from the Borough of Clayton;
7. The Board finds that the Borough of Clayton shall immediately issue all necessary and appropriate permits to the Doyle's for the construction of the two (2) pole barns proposed to be constructed and erected at the Property as presented in the application submitted to the Board, and perform inspections of such construction as required under New Jersey law;
8. The Board finds that the Borough of Clayton shall immediately issue all necessary and appropriate permits to the Doyle's for the demolition of the three (3) old farm buildings located at the Property as presented in the application submitted to the Board.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board grants relief to the Doyle's, as aforesaid, to demolish the three (3) old farm buildings located at the Property, and to construct the two (2) new farm buildings (pole barns) at the Property for primarily agricultural use, as set forth in the application submitted to the Board, and as set forth in the above findings; and

NOW, THEREFORE BE IT FURTHER RESOLVED, that all necessary and required permits shall be issued by the Borough of Clayton to the Doyle's for the demolition and construction of the farm buildings as presented in the application submitted to the Board by the Doyle's, and all required inspections of the construction shall be undertaken by the Borough of Clayton.

The Board's consideration of the AMP request regarding the proposed placement of farm signs at the farm Property along Delsea Drive (State Highway Route 47).

1. Based upon the exhibits entered and the testimony presented, the Board finds that no information has been presented by the Doyle's regarding erection and maintenance of farm signs at the Property along Delsea Drive (State Highway Route 47) that would allow the Board to make any determination as to whether the construction and maintenance of such signs is an AMP;
2. The Board finds that the Doyle's do have a right to maintain signage as it regards their farm operation at the Property; but that the right to construct and maintain signage as such is conditioned upon the Doyle's obtaining any required municipal approvals for the signage, as well as any approvals that may be required from any other agency including the State Department of Transportation.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Doyle's shall seek approval for any signage that it may seek to maintain as part of its farm operation at the Property from the Borough of Clayton, and any other governmental agency having jurisdiction over such signage, including, but not limited to, the State Department of Transportation.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby retains jurisdiction of the matter regarding the erection and maintenance of signage only.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board shall forward a copy of this Resolution as its written recommendation of these site specific agriculture management practices to the State Agriculture Development Committee, the Borough of Clayton, and the Doyle's, within thirty (30) days.

**WEST JAY KANDLE, III, CHAIRPERSON
GLOUCESTER COUNTY AGRICULTURE
DEVELOPMENT BOARD**

YES:

NO:

ABSTAIN:

ABSENT:

CERTIFICATION

I, Ken Atkinson, Secretary to the Gloucester County Agriculture Development Board, do hereby certify the foregoing to be a true and accurate copy of the Resolution adopted by the Gloucester County Agriculture Development Board at a meeting of said Committee held on September 8, 2011.

IN WITNESSETH WHEREOF, I have hereunder set my hand and the official seal of this body this 8th day of September, 2011.

SEAL:

KEN ATKINSON, BOARD SECRETARY